

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

William Sparks, :
Plaintiff, : Case No. 2:11-cv-0284
v. :
Zanesville Police Dept, et al., : JUDGE EDMUND A. SARGUS, JR.
Defendants. : Magistrate Judge Kemp

ORDER

Plaintiff, William Sparks, filed a motion for leave to proceed *in forma pauperis* and has submitted a civil rights complaint against the Zanesville Police Department and approximately seventeen other defendants. From financial standpoint, he qualifies for a waiver of the filing fee, so his motion for leave to proceed *in forma pauperis* (#1) is granted. However, before the Court orders service of process on the defendants in such a case, it is required to review the complaint to determine if it "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. §1915(e)(2). Because that determination cannot be made from the complaint which Mr. Sparks has submitted, he will be given an opportunity to submit an amended complaint. Should he choose not to do so, this case will likely be dismissed.

In order for a complaint filed in a federal court to state a claim for relief, it must not only identify the parties to the case, but it must contain "a short and plain statement of the claim showing that the pleader is entitled to relief" Fed.R.Civ.P. 8(a)(2). The statement of the claim, although it

can be short, must set forth enough facts about the claim from which the Court can determine that it is plausible that the plaintiff will be entitled to legal relief if he proves those facts. See Ashcroft v. Iqbal, 129 S.Ct. 1937 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007).

Mr. Sparks' complaint does not do that. After the name or names of each defendant, he simply recites something that defendant allegedly did, such as "broke camcorder with evidence" or "intimidated and harassed myself & daughter while laughing." He does not provide any factual background for these claims, although they may relate to one or more criminal charges brought against him in state or local courts, since he has named several judges or courts and some law enforcement personnel as defendants. However, he has not explained the nature of the charges, when they were filed, how they were resolved, whether he was jailed, and how any of his claims relate to any of these types of events.

A number of the defendants he has named, such as judges, are immune from suit for actions taken within their jurisdiction. See generally Stump v. Sparkman, 435 U.S. 349 (1978). It is important for the Court to know, in a case brought against a judge, whether the judge acted in a case pending before that judge and what type of action the judge took, so that this Court can decide if the judge is immune from suit or not. Additionally, if the person who files a complaint in a federal court has been convicted of criminal charges in a state court, many claims relating to the state court case cannot be brought unless the conviction is overturned on state appeal or through a federal writ of habeas corpus. Heck v. Humphrey, 512 U.S. 477 (1994). Again, if there is a state court conviction, this Court needs to know the details of that before it allows a case challenging that conviction to go forward, particularly because

money damages cannot be awarded against people who were involved in that case if the award would call into question the validity of the conviction. The same need for detail about Mr. Sparks' other claims requires that if he wants this case to proceed, he will have to file an amended complaint to supply the facts that are missing from his initial complaint.

The Court therefore makes this order. If Mr. Sparks wishes his case to proceed, he must file an amended complaint within twenty-eight days. It must set out the facts which relate to his claims against each of the defendants he has named and explain how, in the context of the facts, he believes each defendant violated his constitutional rights. He should include dates on which various things happened (or allegedly happened) and should advise this Court of whether any of his claims relate to state criminal charges brought against him and what happened to those charges (that is, was he convicted, and has the conviction ever been overturned). The Court will then review his amended complaint to see if it has enough facts in it to allow it to be served on any of the defendants. If he does not file an amended complaint, this case will be dismissed for failure to prosecute.

/s/ Terence P. Kemp
United States Magistrate Judge